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VIA ECFS

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Ex Parte Communication of the American Cable Association; Electronic Delivery of MVPD Communications; Modernization of Media Regulation Initiative, MB Docket Nos. 17-317 & 17-105

Dear Ms. Dortch:

As the Federal Communications Commission (“Commission”) continues its efforts to modernize its media regulations, including by updating the means by which broadcast stations provide cable operators with notice of their triennial carriage elections, the American Cable Association (“ACA”) urges the Commission to take comparable steps with respect to notices that cable operators are required to deliver to broadcast stations for other purposes.

The Commission is currently examining whether and how to update the procedures by which broadcast stations notify cable operators of their carriage election status (either must-carry or retransmission consent).¹ Under today’s rules, broadcast stations must send a copy of their election statements to cable operators via certified mail. In a recent ex parte meeting, ACA, together with NCTA – The Internet and Television Association, and the National Association of Broadcasters, presented to the Media Bureau a proposal that would allow broadcast stations to send such notice via email to the address posted by a cable operator in its online public file or in COALS rather than by certified mail.²

¹ *Electronic Delivery of MVPD Communications; Modernization of Media Regulation Initiative*, Notice of Proposed Rulemaking, 32 FCC Rcd 10755, ¶ 25-27 (2017).

² Letter from Rick Chessen, Senior Vice President, Legal and Regulatory Affairs and Chief Legal Counsel, NCTA – The Internet and Television Association, to Marlene Dortch, Secretary, Federal Communications Commission, MB Docket Nos. 17-317 & 17-105 (filed Sept. 17, 2018).

To the extent that the Commission permits broadcasters to satisfy their broadcast election notice requirements by means other than delivering certified letters to cable operators, it should make comparable changes to rules that require cable operators to send notices to broadcasters via certified mail. In seeking a revision of these rules to allow broadcasters to deliver these notices via electronic means, broadcast interests have stated that “allowing stations to provide notice electronically not only would make it easier for broadcasters and cable operators to keep track of elections but also would be consistent with rules applicable in other contexts and in line with the Commission’s recent shift toward Internet-based solutions.”³ This statement is equally true for the variety of notices that cable operators must send to broadcast stations via certified mail, and thus the Commission should not amend the rules related to broadcast carriage elections without also allowing cable operators to provide required notices to broadcast stations via email to an address posted by broadcasters in their public files. Those notices include:

- Notice that a cable system is commencing operation (47 C.F.R. § 76.64(k)) or activating service (47 C.F.R. § 76.1617);
- Notice of the deletion or repositioning of broadcast signals (47 C.F.R. § 76.1601);
- Notice of a change in the designation of a cable operator’s principal headend (47 C.F.R. § 76.1607);
- Notice of a cable operator’s intention to change its technical configuration in such a way as to integrate two formerly separate systems (47 C.F.R. § 76.1608); and
- Notice that a cable system provides service to 1,000 or more subscribers, such that it is no longer exempt from the network non-duplication and syndicated exclusivity rules (47 C.F.R. § 76.1609).

The Commission has been steadily moving toward a regime where regulated entities may communicate with subscribers and other interested parties via electronic communications. In granting the Petition for Declaratory Ruling, filed by ACA and NCTA, to clarify that the “written information” that cable operators must provide to their subscribers pursuant to Section 76.1602(b) may be provided electronically, the Commission identified several key benefits of electronic delivery. These included the “positive environmental aspects of saving substantial amounts of paper annually, increased efficiency, and enabling customers to more readily access accurate information regarding their service options.”⁴ Most importantly for ACA’s members, the Commission also recognized that granting the petition would “greatly ease the burden of complying with Section 76.1602(b)(2) for all cable operators, including in particular small cable operators[,]” and “would afford small and medium independent operators, many of which have very limited resources, ‘greater flexibility to match the electronic operations of their online and other competitors.’”⁵ The Commission has continued to move in this direction by proposing to

³ *Electronic Delivery of MVPD Communications; Modernization of Media Regulation Initiative*, Joint Comments of CBS Corporation, The Walt Disney Company, 21st Century Fox, Inc., Univision Communications Inc., ABC Television Affiliates Association, CBS Television Network Affiliates Association, FBC Television Affiliates Association and NBC Television Affiliates, MB Docket No. 17-105 (filed Feb. 14, 2018).

⁴ *National Cable & Telecommunications Association and American Cable Association, Petition for Declaratory Ruling*, Declaratory Ruling, 32 FCC Rcd 5269, ¶ 6 (2017).

⁵ *Id.*, ¶ 8, *quoting* Petition of National Cable & Telecommunications Association and American Cable Association for Declaratory Relief, MB Docket No. 16-216 at 3 (filed Mar. 7, 2016).

allow MVPDs to deliver all remaining subscriber notices electronically. ACA's proposal simply extends the benefits of electronic delivery even further, consistent with the Commission's ongoing efforts to modernize regulatory communications.

This letter is being filed electronically pursuant to section 1.1206 of the Commission's rules.

Sincerely,

A handwritten signature in cursive script, appearing to read "Mary C. Lovejoy".

Mary C. Lovejoy